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MONTANA LEGISLATIVE HISTORY

Chapter 427 1993

Bill H _____ S 412 Original bill & history X C

H. Committee on TAXATION			S. Committee on TAXATION		
Hearing Date(s)	3/17	X C	Hearing Date(s)	3/9	X C
			@ EXEC. ACTION		
EXEC. ACTION	3/18	X C			C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

SB 411 INTRODUCED BY BIANCHI

REVISE REAL ESTATE ADVERTISING

2/16	INTRODUCED		
2/16	REFERRED TO BUSINESS & INDUSTRY		
2/16	FIRST READING		
2/18	HEARING		
2/18	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/20	2ND READING PASSED	50	0
2/22	3RD READING PASSED	48	0
	TRANSMITTED TO HOUSE		
2/23	REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT		
2/23	FIRST READING		
3/09	HEARING		
3/09	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/11	2ND READING CONCURRED	94	6
3/15	3RD READING CONCURRED	88	11
	RETURNED TO SENATE WITH AMENDMENTS		
3/18	2ND READING AMENDMENTS CONCURRED	49	0
3/19	3RD READING AMENDMENTS CONCURRED	47	0
3/24	SIGNED BY PRESIDENT		
3/25	SIGNED BY SPEAKER		
3/30	TRANSMITTED TO GOVERNOR		
4/01	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 246		
	EFFECTIVE DATE: 10/01/93		

SB 412 INTRODUCED BY AKLESTAD, ET AL.

CLARIFY BENEFICIAL USE OF PROPERTY HELD BY A PORT AUTHORITY IS EXEMPT FROM PROPERTY TAXATION

2/16	INTRODUCED		
2/16	REFERRED TO TAXATION		
2/16	FIRST READING		
2/16	FISCAL NOTE REQUESTED		
2/19	FISCAL NOTE RECEIVED		
2/23	FISCAL NOTE PRINTED		
3/09	HEARING		
3/09	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/10	2ND READING PASSED	46	0
3/11	3RD READING PASSED	48	0
	TRANSMITTED TO HOUSE		
3/12	REFERRED TO TAXATION		
3/12	FIRST READING		
3/17	HEARING		
3/19	COMMITTEE REPORT—BILL CONCURRED		
3/30	2ND READING CONCURRED AS AMENDED	84	14
4/01	3RD READING CONCURRED	83	16
	RETURNED TO SENATE WITH AMENDMENTS		
4/06	2ND READING AMENDMENTS CONCURRED	50	0
4/07	3RD READING AMENDMENTS CONCURRED	49	0
4/14	SIGNED BY PRESIDENT		
4/14	SIGNED BY SPEAKER		
4/15	TRANSMITTED TO GOVERNOR		
4/20	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 427		
	EFFECTIVE DATE: 04/20/93		

SB 413 INTRODUCED BY DOHERTY, ET AL.

LIMIT PERIOD FOR WHICH METAL MINE PERMIT IS VALID

2/16	INTRODUCED		
2/16	REFERRED TO NATURAL RESOURCES		
2/16	FIRST READING		
2/16	FISCAL NOTE REQUESTED		
2/19	HEARING		
2/19	TABLED IN COMMITTEE		
2/22	FISCAL NOTE RECEIVED		
2/23	FISCAL NOTE PRINTED		

SB 414 INTRODUCED BY KENNEDY

AMEND RULES RESTRICTING PROVIDERS OF MEDICAID INPATIENT PSYCHIATRIC SERVICES FOR PERSONS UNDER 21

2/16	INTRODUCED		
2/16	REFERRED TO FINANCE & CLAIMS		
2/16	FIRST READING		
2/16	FISCAL NOTE REQUESTED		
2/18	HEARING		
2/18	TABLED IN COMMITTEE		
2/23	FISCAL NOTE PRINTED		
2/23	FISCAL NOTE RECEIVED		

SB 415 INTRODUCED BY FRITZ, ET AL.

PROHIBIT INDISCRIMINATE USE OF OUTDOOR ADVERTISING ALONG HIGHWAYS OF MONTANA

2/16	INTRODUCED		
2/16	REFERRED TO HIGHWAYS & TRANSPORTATION		
2/16	FIRST READING		
2/16	FISCAL NOTE REQUESTED		
2/18	HEARING		
2/18	TABLED IN COMMITTEE		
2/22	FISCAL NOTE RECEIVED		
2/23	FISCAL NOTE PRINTED		

SB 416 INTRODUCED BY BRUSKI-MAUS, ET AL.

REQUIRE CERTAIN FUEL TAX PAYMENTS TO BE MADE BY ELECTRONIC FUNDS TRANSFER

BY REQUEST OF DEPARTMENT OF TRANSPORTATION

2/16	INTRODUCED		
2/16	REFERRED TO HIGHWAYS & TRANSPORTATION		
2/16	FIRST READING		
2/18	HEARING		
2/18	FISCAL NOTE REQUESTED		
2/20	COMMITTEE REPORT—BILL PASSED		
2/22	2ND READING PASSED	29	15
2/23	FISCAL NOTE PRINTED		
2/23	3RD READING PASSED	38	11
	TRANSMITTED TO HOUSE		
2/23	FISCAL NOTE RECEIVED		
2/23	REFERRED TO HIGHWAYS & TRANSPORTATION		
2/23	FIRST READING		
3/05	HEARING		
3/17	TABLED IN COMMITTEE		
3/29	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/30	2ND READING CONCUR MOTION FAILED	48	49

SENATE BILL NO. 412

INTRODUCED BY AKLESTAD, FELAND, D. BROWN, LYNCH, QUILICI, PAVLOVICH, DAILY, JACOBSON, HAYNE, ROSE

IN THE SENATE

FEBRUARY 16, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
MARCH 9, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
MARCH 10, 1993	PRINTING REPORT.
	SECOND READING, DO PASS.
MARCH 11, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 48; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 12, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
MARCH 19, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 30, 1993	SECOND READING, CONCURRED IN AS AMENDED.
APRIL 1, 1993	THIRD READING, CONCURRED IN. AYES, 83; NOES, 16.
	RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 6, 1993	SECOND READING, AMENDMENTS CONCURRED IN.
APRIL 7, 1993	THIRD READING, AMENDMENTS

CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

Senate BILL NO. 412

INTRODUCED BY Aklestad Eck Lynch Dave Brown Emerson Darkenwald Jacobson Wayne Rose

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT THE BENEFICIAL USE OF PROPERTY HELD BY A PORT AUTHORITY IS EXEMPT FROM PROPERTY TAXATION; AMENDING SECTION 15-24-1203, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-24-1203, MCA, is amended to read:

"**15-24-1203. Privilege tax on gainful use of tax-exempt property -- exceptions.** After March 17, 1969, there is imposed and ~~shall~~ must be collected a tax upon the possession or other beneficial use enjoyed by any private individual, association, or corporation of any property, real or personal, which for any reason is exempt from taxation. ~~No~~ A tax may not be imposed upon the possession or other beneficial use of buildings owned by public entities and located upon public airports. However, privately owned buildings located on ~~such~~ airport property are subject to tax. ~~No~~ A tax ~~shall~~ may not be imposed upon the possession or other beneficial use of public lands occupied under the terms of mineral, timber, or grazing leases or permits issued by the United States or the state of Montana or upon any easement unless the lease, permit, or easement entitles the lessee or permittee to exclusive possession of the premises to which the lease, permit, or easement relates. The tax ~~shall be~~ is imposed upon the possession or other beneficial use of an electric transmission line and associated facilities, except that lines and facilities of a design capacity of less than 500 kilovolts ~~shall~~ may not be subject to the tax. The tax may not be imposed upon the possession or other beneficial use of railroad right-of-way or track owned by the United States or acquired by the state pursuant to Title 60, chapter 11, part 1, as long as the state or the United States retains ownership and the right-of-way or track is used exclusively for rail transportation. The tax may not be imposed on the beneficial use by a person of property held by a port authority, created under Title 7, chapter 14, part 11, unless the port authority provides for the exclusive use of the property by the person."

NEW SECTION. **Section 2.** **Effective date -- retroactive applicability.** [This act] is effective on passage and approval and applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1991.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15
In compliance with a written request, there is hereby submitted a Fiscal Note for SB0412, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act clarifying that the beneficial use of property held by a port authority is exempt from property taxation; and providing an effective date and a retroactive applicability date.

FISCAL IMPACT:

Revenues:

Currently, the beneficial use tax collections on property held by a port authority are approximately $8,000 in Toole County and $31,000 in Silver Bow County. The proposal would result in a decrease in property tax revenue of $39,000, primarily for local governments in Toole and Silver Bow County.

TECHNICAL NOTE:

The proposal presents a serious problem for the taxation of the BPA powerlines ($4.1 million per year) because it exempts port authorities created by local government, but does not provide a corresponding exemption for port authorities created by the federal government. The problem can be avoided by amending the proposal to exempt the beneficial use of property owned by federal port authorities.

Dave Lewis 2-19-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

2/23/93
GARY AKLESTAD, PRIMARY SPONSOR DATE

Fiscal Note for SB0412, as introduced

SB 412

MINUTES

MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Mike Halligan, on March 9, 1993, at 7:00 a.m.

ROLL CALL

Members Present:
Sen. Mike Halligan, Chair (D)
Sen. Dorothy Eck, Vice Chair (D)
Sen. Bob Brown (R)
Sen. Steve Doherty (D)
Sen. Delwyn Gage (R)
Sen. Lorents Grosfield (R)
Sen. John Harp (R)
Sen. Spook Stang (D)
Sen. Tom Towe (D)
Sen. Fred Van Valkenburg (D)
Sen. Bill Yellowtail (D)

Members Excused: None.

Members Absent: None.

Staff Present: Jeff Martin, Legislative Council
Bonnie Stark, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: SB 396, SB 402, SB 412
Executive Action: SB 235, SB 283, SB 396, SB 412

EXECUTIVE ACTION ON SB 235 and SB 283

DISCUSSION:

Senator Halligan said there are further amendments to discuss regarding these two sales tax bills. A letter from Ward Shanahan, dated March 4, 1993, requesting a proposed amendment, was distributed for the Committee's consideration; a copy is attached to these minutes.

HEARING ON SB 412

Opening Statement by Sponsor:

Senator Gary Aklestad, Senate District #6, presented SB 412, a port authority bill which will exempt property tax on most public facilities located on public airports and other public lands. He emphasized that the port authorities are providing services for everyone in the state, not just for that isolated area. More goods and commodities are brought into our state through these ports, and the whole state benefits.

Proponents' Testimony:

Merle Raph, representing Toole County, spoke as a proponent of SB 412. Mr. Raph said this bill will resolve a conflict between the port authority statutes created in 1985. The port authority is exempt from taxation under those statutes, but the DOR has applied a beneficial use tax to anybody who uses a port authority. Typically, a port authority has an operator who moves the product, trans-loading it off and on railroad cars and trucks. The operator does a lot of the work for them but does not utilize the entire facility. The DOR has taxed the operator for the entire value of the facility. SB 412 seeks to remedy this problem. Mr. Raph presented Exhibits No. 7 and 8 to these minutes.

Bill Fogarty, the Marketing and Traffic Manager for the Port of Montana, at Butte, spoke in favor of SB 412. He also represented Jack Lynch, Chief Executive of Butte-Silver Bow. Mr. Fogarty presented Exhibit No. 9 to these minutes.

Rep. Dave Brown, House District No. 72, spoke in support of SB 412 on behalf of the Butte-Silver Bow delegation and in cooperation with the North-Central delegation. Rep. Brown said there is a lot of trading just beginning at these ports and he believes it will grow rapidly. He urged the Committee's strong support of this bill.

Opponents' Testimony:

None.

Informational Testimony:

Dave Woodgerd, DOR, presented Exhibit No. 10 to these minutes, an amendment to SB 412, which will extend the exemption from the beneficial use tax to federally owned port authorities. The DOR recommends this amendment be adopted.

Questions From Committee Members and Responses:

Senator Towe asked for clarification of the term "exclusive use" on Line 17, Page 2. Mr. Raph responded that there is a certain capacity in trans-loading that can be reached, measured in tons and cubic feet. If someone has the exclusive-user control of the facilities to the exclusion of everybody else, they will be taxed. If this facility is under lease, they will be taxed. Mr. Fogarty said the grain terminal at the Butte Port is leased to, and operated by, a private company. This private lease operation would continue to be taxed under the beneficial use tax. Senator Towe asked if someone else asked for the same privileges, would that be granted. Mr. Fogarty said there is a 20-year lease on this facility, and the facility is separate and apart from the other facilities the Port operates.

Senator Towe asked Dave Woodgerd if it is his understanding that the private grain business would be taxed under the beneficial use tax, but the other Port facilities would be tax exempt. Mr. Woodgerd said he has no problem with this, but the DOR would look closely at what is and what is not exclusive use. Mr. Woodgerd said language in the bill would allow a split in the taxing at the Port facilities.

Senator Gage commented that inasmuch as the private trucking firm does not utilize 100% of the Toole County port facility and the facility is available to everyone else, the port authority has taken the position there should not be a beneficial use tax imposed on the private trucking firm utilizing the facility. The Senator asked Mr. Raph to explain this. Mr. Raph said the idea is to encourage other trucking firms to use the facilities.

Senator Grosfield asked if this is an all-or-nothing issue. Mr. Raph said it is, and their position is that if there were 9 trucking firms using the facilities, they would each pay 11% of the beneficial use tax. With only one trucking firm, it is difficult to determine the percentage of use for tax purposes.

Closing by Sponsor:

Senator Aklestad said he has no problem with the amendment offered by the DOR and encouraged the Committee to adopt the amendment. He said passage of SB 412 would encourage more economic development within the state, and these two facilities can provide assistance in that development because of their locations.

EXECUTIVE ACTION ON SB 412

MOTION/VOTE:

Senator Towe moved for adoption of the amendment to SB 412. (sb041202.ajm) The motion CARRIED UNANIMOUSLY on oral vote.

MOTION/VOTE:

Senator Towe moved SB 412 DO PASS AS AMENDED. The motion CARRIED UNANIMOUSLY on oral vote. (531110SC.Sma)

EXECUTIVE ACTION ON SB 235

DISCUSSION:

Jeff Martin explained that Amendment 6 on Exhibit No. 2, would provide 10.5% of the sales tax revenue for the operation of the University System, and Amendment 10 would set up a special revenue account to receive the sales tax revenue. Amendment 7 would proportionately reduce the amount of revenue going into the general fund from the sales tax. Amendments 8, 9, and 17 would restrict a claimant from claiming both a homeowner's credit, and a renter's credit, in one year. Amendment 11 would provide a taxpayer the option of itemizing deductions, limited to contributions and medical expenses; this is tied to Federal law. Amendments 12 through 16 state that if itemized deductions are taken, a taxpayer is not entitled to the standard deduction. Amendment 18 is a technical amendment.

MOTION:

Senator Eck moved for adoption of Amendments 8, 9, and 17.

DISCUSSION:

Senator Towe asked Director Robinson his thoughts on this matter. Mr. Robinson said this concept is valid, and needed, so a double renters credit is not provided. Presently, the DOR does not have a breakdown on renters credit versus homeowners credit, and they do not have a total tax relief figure, but he estimates it to be less than $4 million.

Upon further questioning by Senators Gage and Towe, Jeff Martin explained that these amendments pertain to the income tax code. The tax credit allowed in the property tax code would allow a person to exempt a certain portion of the market value of their home, depending on income, and that exemption is unrelated to these amendments.

VOTE:

The motion CARRIED UNANIMOUSLY on oral vote.

MOTION:

Senator Eck moved for adoption of Amendments numbered 5, 6, 7, and 10.

7:00 A.M. ROLL CALL Meeting

SENATE COMMITTEE TAXATION DATE 3-9-93

NAME	PRESENT	ABSENT	EXCUSED
Sen. Halligan, Chair	✓		
Sen. Eck, Vice Chair	✓		
Sen. Brown	✓		
Sen. Doherty	✓		
Sen. Gage	✓		
Sen. Grosfield	✓		
Sen. Harp	✓		
Sen. Stang	✓		
Sen. Towe	✓		
Sen. Van Valkenburg	✓		
Sen. Yellowtail	✓		

FC8

Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

March 9, 1993

MR. PRESIDENT:
We, your committee on Taxation having had under consideration Senate Bill No. 412 (first reading copy -- white), respectfully report that Senate Bill No. 412 be amended as follows and as so amended do pass.

Signed: _____
Senator Mike Halligan, Chair

That such amendments read:

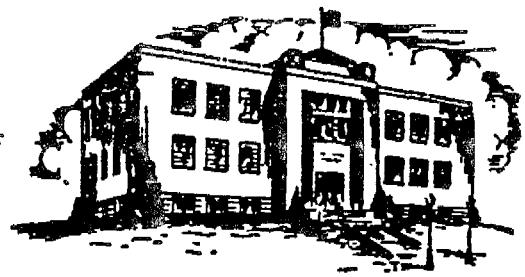
1. Page 2, line 16.
Following: "11,"
Insert: "or by a port authority owned by the United States or an agency of the United States,"

-END-

m — Amd. Coord.
Sec. of Senate

531110SC.Sma

JOHN ALSTAD, Chairman
DENIS FREELAND, Commissioner
ALLAN UNDERDAL, Commissioner
MERLE RAPH, County Attorney
MELODEE A. ROBINS, Clerk and Recorder
VERN L. ANDERSON, Sheriff
SANDRA PEDERSEN, Justice of the Peace
COMMISSIONERS, 406-434-5121



PENNY UNDERDAHL, Clerk of Court
DIANA L. FELTON, Treasurer
CORRINE MERHAR, Assessor
MARIA HARRISON, Supt. of Schools
MYRON FRYDENLUND Coroner
MYRNA WOLLAN, Public Administrator
CLERK AND RECORDER, 406-434-2232

COUNTY OF TOOLE

226 1st South – Toole County Courthouse
SHELBY, MONTANA 59474

March 4th, 1993

SENATE TAXATION
EXHIBIT NO. 7
DATE 3-9-93
BILL NO. SB 412

Senator Mike Halligan
Montanan State Legislature
Taxation Committee
Helena, MT 59601

Dear Senator Halligan:

Toole County would like to urge you and your committee's support in the passage of SB-412 regarding beneficial use assessment in port facilities.

This county has been dedicated in supporting the Port Facility - NORTHERN EXPRESS TRANSPORTATION AUTHORITY (NETA)- since its creation. Toole County has given NETA the statutory maximum of two (2) mills almost every year since NETA was created.

Since the operating agreement between NETA and a private party clearly makes NETA responsible for paying for major repairs, property insurance and property taxes, it makes no sense to collect property taxes on ourselves because this tax will be paid for with taxes generated from the 2 mills.

We respectfully urge you to pass SB-412 and make the beneficial use assessment equal between airport authorities and port authorities.

Sincerely yours,

John A. Alstad, Chairman

Denis Freeland, Commissioner

Allan Underdal, Commissioner

JAA/mr
cc: Toole County Delegation
Senator Aklestad & Rep. Feland

SENATE TAXATION
EXHIBIT NO. 8
DATE 3-9-93
BILL NO. SB 412

TO: Senate Appropriations Committee
FROM: Toole County, Montana
DATE: March 8, 1993
RE: SENATE BILL NUMBER 412

A BILL TO EXEMPT FROM TAXATION THE BENEFICIAL USE OF PROPERTY HELD BY A STATUTORY PORT AUTHORITY.

INTRODUCTION

This bill has been introduced to provide for the tax exempt status of property held by statutory port authorities that allow public use of its facilities. The following is a question and answer format to provide you with information and address the issues.

1. What is a statutory port authority?

Port authorities are creatures of statute. The 1985 Montana legislature enacted Title 7, Chapter 14, Part 11 which provides that any county or municipality may create a public body, corporate and politic, to be known as a port authority. Additionally, two or more local governments may create a regional port authority.

The statutes specifically provide that the purpose of a port authority is to promote, stimulate, develop, and advance the general welfare, commerce, economic development, and prosperity of its jurisdiction and of the state and its citizens. The legislature also provided these authorities with other powers to generate business.

Several communities such as Billings and Butte, as well as Toole County, have created port authorities.

2. As corporate and politic public bodies, aren't they already exempt from taxation?

No. While the 1985 legislature specifically provided in Montana Code Annotated §7-14-1137 for tax exempt status of port authorities, the Department of Revenue has taken the position that any private use of these facilities is subject to the beneficial use tax located at Montana Code Annotated §15-24-1203. Thus, the port, as long as it is inactive will not be taxed; however, when a private company uses the facility it is taxed for the entire value of the facility. For instance, the Toole County Port Authority (known as the Northern Express Transportation Authority) has an operating agreement that provides a share of the use of its facility to a private trucking firm. This firm does not utilize the facility to capacity and the port authority is attempting to market the remaining capacity to other users. The Department of

market the remaining capacity to other users. The Department of Revenue has levied a tax against the private trucking company for the full value of the facility. This bill would exempt partial users of the property but if a private user leased the entire facility to the exclusion of the public, then the beneficial tax would apply.

3. **If a private user benefits from the facility why shouldn't they be taxed for that use?**

The answer is quite simple; if the private user has exclusive control over the facility they should pay the tax. However, if the facility remains open to the public to use, no taxation is proper. The 1985 legislature provided for tax exempt status to create new business and boost local economies. This bill simply "cleans up" the beneficial use tax and brings it in line with the original intent of the authors of the original bill to create port authorities.

4. **Are there other exemptions to the beneficial use tax?**

Yes. Port authorities were created with tax exempt status and yet the legislature did not add it to the list of other exemptions from the beneficial use tax which include:

A. airport buildings owned by public entities; and
B. farm, timber, mineral or grazing leases of public land; and
C. electric lines of less than 500 kilovolts; and
D. certain railroad rights of way.

Each of these exemptions were created for a purpose but it appears that none of the exemptions were intended to create jobs in communities with declining industry. The port authority statutes were enacted to assist communities in creating more commerce and thus, more jobs and an expanded tax base, at the slight expense of the property taxation.

5. **What about the loss of taxation of this property?**

The loss of beneficial use taxation is minimal when the increased taxation of employees and business are considered. It is well known that in Montana, you have to spend money on the feed for the ewes in the fall to have wool and lambs in the spring. The users of port authority property will pay their share of Montana taxes. They pay employee taxes, their own property taxes, and business taxes. Montana needs the jobs. Montana needs new business.

CONCLUSION

This bill simply clarifies the tax exempt status of public port authorities.

SENATE TAXATION
EXHIBIT NO. 9
DATE 3-9-93
BILL NO SB 412

PORT OF MONTANA

P.O. Box 3641 Butte, Montana - 59702 Phone: 406-723-4321 Fax: 406-782-8510

Testimony SB 412

March 9, 1993

Mr. Chairman. Members of the Committee, my name is Bill Fogarty. I am the Marketing and Traffic Manager for the Port of Montana at Butte. I am also representing Jack Lynch, Chief Executive, Butte-Silver Bow who is in Washington D.C. this week. We are in support of SB 412.

As you are aware, the Port of Montana and the Port of Shelby were both established as public port authorities under Chapter 14, Title 7 of the Montana code. The Port of Montana is governed by a five member board who are appointed by the Chief Executive of Butte-Silver Bow. The board hires and supervises the General Manager and the Marketing Manager. The other office staff and yard personnel are hired by either of the two managers named above. The Port of Montana leases the grain terminal operation to a private company. This company has the exclusive use and management responsibility for this facility and pay taxes accordingly. The remainder of the Port of Montana facilities are operated by the Port of Montana as a public port authority. The services and facilities operated by the port management include warehousing, distribution and transloading services, primarily for bulk commodities such as forest products, minerals, ores and fertilizer.

The Ports were created to enhance Montana's Transportation system and aid in economic development. The port's have enhanced the ability of Montana's shippers and producers to compete more effectively in the market place by offering intermodal services access to new markets and competitive rates.

Even though Dick Irvin Inc. is the operator for the Port of Shelby, the trucking firm hauls commodities regularly from and to the Port of Montana. The two ports are working actively on joint efforts particularly in the marketing area. This will be a plus for all Montana businesses. Dick Irvin Inc. is the Port of Shelby operator, but must service all customers whether they are competitors or not.

Adding unnecessary cost burdens to the ports makes it more difficult to attain the goals they were created for: to offer cost effective transportation services and enhance economic development.

SENATE TAXATION
EXHIBIT NO. 10
DATE 3-9-93
BILL NO. SB 412

Amendments to Senate Bill 412
First Reading Copy

Prepared by Department of Revenue
3/ 8/93

1. Page 2, line 16.
Following: "11,"
Insert: "or a port authority owned the United States or an agency of the United States,"

REASON FOR AMENDMENT: This amendment extends the exemption from the beneficial use tax to federally owned port authorities.

This amendment is designed to prevent possible discrimination against persons who do business with the United States government or an agency of the United States government.

Amendments to Senate Bill No. 412
First Reading Copy

For the Committee on Taxation

Prepared by Jeff Martin
March 9, 1993

1. Page 2, line 16.
Following: "11,"
Insert: "or by a port authority owned by the United States or an agency of the United States,"

DATE 3-9-93

SENATE COMMITTEE ON Taxation

BILLS BEING HEARD TODAY: SB 396, 402, 412

Name	Representing	Bill No.	Check One: Support	Oppose
Gordon Morris	MACo	396	✓	
Richard Nisbet	City of Helena	402	✓	
Ken Hoyles	Yellowstone County	396	–	
Daniel L. Kelly	"	"	✓	
Mike Mathew	"	396	✓	
Carl Schweitzer	MT Cont Assoc	402	–	
MARK Cole	NETA	412	✓	
John Kavanagh	NETA	412	✓	
JOHN ALSTAD	TOOLE CTY COMMISSION	412	✓	
KENNETH M. WOLF	NETA	412	✓	
William J Leahy	Part of Mont BSB	412	✓	
Anna M. Miller	DNRC	402	No Opposition	
Norvell Anderson	DOC	402	–	
DAVE Brown	HD #12	412	✓	
MERLE RAPH	TOOLE CO.	412	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

F10

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN BOB GILBERT**, on March 17, 1993, at 8:15 a.m.

ROLL CALL

Members Present:

Rep. Bob Gilbert, Chair (R)
Rep. Mike Foster, Vice Chair (R)
Rep. Shiell Anderson (R)
Rep. John Bohlinger (R)
Rep. Ed Dolezal (D)
Rep. Jerry Driscoll (D)
Rep. Gary Feland (R)
Rep. Marian Hanson (R)
Rep. Hal Harper (D)
Rep. Chase Hibbard (R)
Rep. Vern Keller (R)
Rep. Ed McCaffree (D)
Rep. Bea McCarthy (D)
Rep. Tom Nelson (R)
Rep. Scott Orr (R)
Rep. Bob Raney (D)
Rep. Bob Ream (D)
Rep. Rolph Tunby (R)

Members Excused: Rep. Dan Harrington

Members Absent: None

Staff Present: Lee Heiman, Legislative Council
Jill Rohyans, Committee Secretary
Louise Sullivan, Transcriber

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: SB 412, HB 608, HB 680, and HB 671
Executive Action: None

HEARING ON SB 412

Opening Statement by Sponsor:

SEN. GARY AKLESTAD, SD 6, Galata, said the bill would provide a tax exemption for public use of property owned by statutory port authorities. The three port authorities in the state are in Billings, Butte and Shelby. The purpose of a port authority is to promote, stimulate and advance the economic development and prosperity of the community and the state.

Proponents' Testimony:

Myrl Raph, representing Toole County, submitted written testimony in support of SB 412. **EXHIBIT 1**

Bill Fogarty, Marketing and Traffic Manager for the Port of Montana at Butte, submitted written testimony in support of SB 412. **EXHIBIT 2**

Opponents' Testimony: None.

Questions From Committee Members and Responses:

REP. RANEY asked what the private entities do if the port authorities have buildings they can lease or rent to private entities. **SEN. AKLESTAD** said they have no buildings in Shelby, but they do have a loading facility which is being used by a trucking company.

REP. HARPER wondered why a private user running a for-profit business should receive a tax exemption. **SEN. AKLESTAD** said they would be taxed if they were the sole user of that facility.

Closing Statement by Sponsor:

SEN. AKLESTAD closed.

HEARING ON HB 680

Opening Statement by Sponsor:

REP. BOB REAM, HD 54, Missoula, said HB 680 would eliminate the tax credit to utilities for the no-interest, or low interest, loans they make to consumers for installation of energy efficient equipment. He said he was a strong supporter of the program but the bill provides those credits should become part of the rate base. He said the state has given too many tax credits. Tax indexing is costing the state $70-80 million per year. He said tax credits are the worst expenditures because they come right

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL DATE 3/17/93

NAME	PRESENT	ABSENT	EXCUSED
REP. GILBERT, CHAIRMAN	✓		
REP. FOSTER	✓		
REP. HARRINGTON			✓
REP. ANDERSON	✓		
REP. BOHLINGER	✓		
REP. DOLEZAL	✓		
REP. DRISCOLL	✓		
REP. ELLIOTT	✓		
REP. FELAND	✓		
REP. HANSON	✓		
REP. HARPER	✓		
REP. HIBBARD	✓		
REP. KELLER	✓		
REP. McCAFFREE	✓		
REP. McCARTHY	✓		
REP. NELSON	✓		
REP. ORR	✓		
REP. RANEY	✓		
REP. REAM	✓		
REP. TUNBY	✓		

EXHIBIT 1
DATE 3/17/93
SB 412

TO: Senate Appropriations Committee
FROM: Toole County, Montana
DATE: March 8, 1993
RE: SENATE BILL NUMBER 412

A BILL TO EXEMPT FROM TAXATION THE BENEFICIAL USE OF PROPERTY HELD BY A STATUTORY PORT AUTHORITY.

INTRODUCTION

This bill has been introduced to provide for the tax exempt status of property held by statutory port authorities that allow public use of its facilities. The following is a question and answer format to provide you with information and address the issues.

1. What is a statutory port authority?

Port authorities are creatures of statute. The 1985 Montana legislature enacted Title 7, Chapter 14, Part 11 which provides that any county or municipality may create a public body, corporate and politic, to be known as a port authority. Additionally, two or more local governments may create a regional port authority.

The statutes specifically provide that the purpose of a port authority is to promote, stimulate, develop, and advance the general welfare, commerce, economic development, and prosperity of its jurisdiction and of the state and its citizens. The legislature also provided these authorities with other powers to generate business.

Several communities such as Billings and Butte, as well as Toole County, have created port authorities.

2. As corporate and politic public bodies, aren't they already exempt from taxation?

No. While the 1985 legislature specifically provided in Montana Code Annotated §7-14-1137 for tax exempt status of port authorities, the Department of Revenue has taken the position that any private use of these facilities is subject to the beneficial use tax located at Montana Code Annotated §15-24-1203. Thus, the port, as long as it is inactive will not be taxed; however, when a private company uses the facility it is taxed for the entire value of the facility. For instance, the Toole County Port Authority (known as the Northern Express Transportation Authority) has an operating agreement that provides a share of the use of its facility to a private trucking firm. This firm does not utilize the facility to capacity and the port authority is attempting to market the remaining capacity to other users. The Department of

market the remaining capacity to other users. The Department of Revenue has levied a tax against the private trucking company for the full value of the facility. This bill would exempt partial users of the property but if a private user leased the entire facility to the exclusion of the public, then the beneficial tax would apply.

3. If a private user benefits from the facility why shouldn't they be taxed for that use?

The answer is quite simple; if the private user has exclusive control over the facility they should pay the tax. However, if the facility remains open to the public to use, no taxation is proper. The 1985 legislature provided for tax exempt status to create new business and boost local economies. This bill simply "cleans up" the beneficial use tax and brings it in line with the original intent of the authors of the original bill to create port authorities.

4. Are there other exemptions to the beneficial use tax?

Yes. Port authorities were created with tax exempt status and yet the legislature did not add it to the list of other exemptions from the beneficial use tax which include:

A. airport buildings owned by public entities; and
B. farm, timber, mineral or grazing leases of public land; and
C. electric lines of less than 500 kilovolts; and
D. certain railroad rights of way.

Each of these exemptions were created for a purpose but it appears that none of the exemptions were intended to create jobs in communities with declining industry. The port authority statutes were enacted to assist communities in creating more commerce and thus, more jobs and an expanded tax base, at the slight expense of the property taxation.

5. What about the loss of taxation of this property?

The loss of beneficial use taxation is minimal when the increased taxation of employees and business are considered. It is well known that in Montana, you have to spend money on the feed for the ewes in the fall to have wool and lambs in the spring. The users of port authority property will pay their share of Montana taxes. They pay employee taxes, their own property taxes, and business taxes. Montana needs the jobs. Montana needs new business.

CONCLUSION

This bill simply clarifies the tax exempt status of public port authorities.

EXHIBIT 2
DATE 3/12/93
SB 412

PORT OF MONTANA
P.O. Box 3641 Butte, Montana - 59702 Phone: 406-723-4321 Fax: 406-782-8510

Testimony SB 412

March 9, 1993

Mr. Chairman, Members of the Committee, my name is Bill Fogarty. I am the Marketing and Traffic Manager for the Port of Montana at Butte. I am also representing Jack Lynch, Chief Executive, Butte-Silver Bow who is in Washington D.C. this week. We are in support of SB 412.

As you are aware, the Port of Montana and the Port of Shelby were both established as public port authorities under Chapter 14, Title 7 of the Montana code. The Port of Montana is governed by a five member board who are appointed by the Chief Executive of Butte-Silver Bow. The board hires and supervises the General Manager and the Marketing Manager. The other office staff and yard personnel are hired by either of the two managers named above. The Port of Montana leases the grain terminal operation to a private company. This company has the exclusive use and management responsibility for this facility and pay taxes accordingly. The remainder of the Port of Montana facilities are operated by the Port of Montana as a public port authority. The services and facilities operated by the port management include warehousing, distribution and transloading services, primarily for bulk commodities such as forest products, minerals, ores and fertilizer.

The Ports were created to enhance Montana's Transportation system and aid in economic development. The port's have enhanced the ability of Montana's shippers and producers to compete more effectively in the market place by offering intermodal services access to new markets and competitive rates.

Even though Dick Irvin Inc. is the operator for the Port of Shelby, the trucking firm hauls commodities regularly from and to the Port of Montana. The two ports are working actively on joint efforts particularly in the marketing area. This will be a plus for all Montana businesses. Dick Irvin Inc. is the Port of Shelby operator, but must service all customers whether they are competitors or not.

Adding unnecessary cost burdens to the ports makes it more difficult to attain the goals they were created for: to offer cost effective transportation services and enhance economic development.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

_____ COMMITTEE BILL NO. 512

DATE _____ SPONSOR(S) _____

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
MIRAH	Toole County	✓	
Bill Fogarty	Butte/Silver Bow	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN BOB GILBERT**, on March 18, 1993, at 8:00 a.m.

ROLL CALL

Members Present:
Rep. Bob Gilbert, Chairman (R)
Rep. Mike Foster, Vice Chairman (R)
Rep. Dan Harrington, Minority Vice Chairman (D)
Rep. Shiell Anderson (R)
Rep. John Bohlinger (R)
Rep. Ed Dolezal (D)
Rep. Jerry Driscoll (D)
Rep. Jim Elliott (D)
Rep. Gary Feland (R)
Rep. Marian Hanson (R)
Rep. Hal Harper (D)
Rep. Chase Hibbard (R)
Rep. Vern Keller (R)
Rep. Ed McCaffree (D)
Rep. Bea McCarthy (D)
Rep. Tom Nelson (R)
Rep. Scott Orr (R)
Rep. Bob Raney (D)
Rep. Bob Ream (D)
Rep. Rolph Tunby (R)

Members Excused: Rep. Tunby excused from 8:00 a.m - 10:00 a.m.

Members Absent: None

Staff Present: Lee Heiman, Legislative Council
Jill Rohyans, Committee Secretary
Claudia Johnson, Transcriber

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing: None
Executive Action: HB 388 Tabled, HB 664 Tabled, HB 670 Do Pass As Amended, HB 680 Do Pass As Amended, SB 370 Be Concurred In As Amended, SB 412 Be Concurred In, HB 17 Do Pass As Amended, HB 70 Do Pass As

REP. HIBBARD stated he did not have a problem with the bill and felt it was specific enough that it wouldn't open up a lot of tax holidays. He said it had a fairly narrow definition.

Motion/Vote: **REP. NELSON MOVED SB 370 BE CONCURRED IN AS AMENDED.** Motion carried unanimously.

EXECUTIVE ACTION ON SB 412

Motion/Vote: **REP. FELAND MOVED SB 412 BE CONCURRED IN.** Motion carried 18-1 with **REP. McCAFFREE** voting no.

EXECUTIVE ACTION ON HB 17

Motion: **REP. REAM MOVED HB 17 DO PASS.**

CHAIRMAN GILBERT said there was some concern with the open-end fees as opposed to current law. He presented proposed amendments on page 3, line 3, which insert the language, "The fees adopted by the department shall be commensurate with the budget authority as approved by the Legislature." The intent is to make sure the fees are not raised beyond specific needs.

REP. HARPER said the fees should be based on what is necessary to carry out the duties.

REP. DRISCOLL said the way the bill is written, money is deposited in a special revenue account. The Appropriation Committee's authority is needed to spend any of it. The amendment just clarifies the legislative intent.

Motion/Vote: **REP. FOSTER moved adoption of the amendment on page 3, line 3.** Motion carried unanimously.

Motion/Vote: **REP. REAM MOVED HB 17 DO PASS AS AMENDED.** Motion carried 16-3 with **REPS. FOSTER, ORR and FELAND** voting no.

EXECUTIVE ACTION ON HB 70

Motion: **REP. McCARTHY MOVED HB 70 DO PASS.**

CHAIRMAN GILBERT proposed the same amendment as was just adoped for HB 17, page 3, line 4.

Motion/Vote: **REP. McCARTHY** moved adoption of the amendment on page 3, line 3. Motion to amend carried unanimously.

Motion/Vote: **REP. McCARTHY MOVED HB 70 DO PASS AS AMENDED.** Motion carried 16-3 with **REPS. FOSTER, FELAND and ORR** voting no.

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL DATE 3/12/93

NAME	PRESENT	ABSENT	EXCUSED
REP. GILBERT, CHAIRMAN	✓		
REP. FOSTER	✓		
REP. HARRINGTON	✓		
REP. ANDERSON	✓		
REP. BOHLINGER	✓		
REP. DOLEZAL	✓		
REP. DRISCOLL	✓		
REP. ELLIOTT	✓		
REP. FELAND	✓		
REP. HANSON	✓		
REP. HARPER	✓		
REP. HIBBARD	✓		
REP. KELLER	✓		
REP. McCAFFREE	✓		
REP. McCARTHY	✓		
REP. NELSON	✓		
REP. ORR	✓		
REP. RANEY	✓		
REP. REAM	✓		
REP. TUNBY	✓		✓ until 10:00

HOUSE STANDING COMMITTEE REPORT

March 18, 1993

Mr. Speaker: We, the committee on Taxation report that Senate Bill 412 (third reading copy -- blue) be concurred in .

Signed: _____
Bob Gilbert, Chair

Carried by: Rep. Feland

Committee Vote:
Yes ___, No ___.

#1

HOUSE COMMITTEE OF THE WHOLE AMENDMENT
Senate Bill 412
Representative Gilbert

March 25, 1993 1:11 pm

Mr. Chairman: I move to amend Senate Bill 412 (third reading copy -- blue).

Signed: Bob Gilbert
Representative Gilbert

And, that such amendments to Senate Bill 412 read as follows:

1. Page 2.
Following: line 20
Insert: "NEW SECTION. Section 2. Coordination instruction. If House Bill No. 312, Senate Bill No. 325, and [this act] are passed and approved, then 15-24-1204 is amended to read:

"15-24-1204. Rate of privilege -- tax credit for federal payments in lieu of taxes. The tax imposed upon ~~such~~ the possession or other beneficial use of tax-exempt property for industrial, trade, or other business purposes ~~shall be in the same amount and to the same extent as the ad valorem property tax would be if the possessor or user were the owner thereof, provided that there shall be~~ is on the separate private interest in the tax-exempt property. The amount of payments that are made in lieu of taxes must be credited against the amount of tax ~~so~~ that is imposed upon the beneficial use of property owned by the federal government ~~the amount of payments which are made in lieu of taxes~~."

Renumber: subsequent section

-END-

ADOPT

REJECT

HOUSE
SB 412